

UPDATED INFORMATIVE DIGEST
ORD #0615-08
In-Home Supportive Services Health Care Certification Requirement

The health care certification is an In-Home Supportive Services (IHSS) program eligibility requirement, the purpose of which is to assist in determining an applicant's need for IHSS in order to remain safely in his/her own home.

Senate Bill (SB) 72 (Chapter 8, Statutes of 2011), which adopted Welfare and Institutions Code (WIC) section 12309.1, required the California Department of Social Services (CDSS), in consultation with California Department of Health Care Services and stakeholders, develop a standard health care certification form. The consultation resulted in the IHSS Program Health Care Certification form (SOC 873), which an IHSS program applicant must obtain from a licensed health care professional to certify that the individual is unable to independently perform one or more activities of daily living (ADLs) and that, without services to assist with ADLs, the individual is at risk of placement in out-of-home care. The CDSS implemented the health care certification requirements for IHSS applicants effective August 1, 2011, by way of All County Letter (ACL) No. 11-55 dated July 27, 2011. A follow-up ACL addressing circumstances under which services may be authorized prior to county receipt of SOC 873 was released in November 2011.

These proposed regulations adopt language in the Manual of Policies and Procedures (MPP), Division 30, sections 30-701 (Definitions) and 30-754 et seq. (Health Care Certification). The proposed regulations specify that, as a condition of receiving IHSS, an applicant must obtain a certification from a licensed health care professional declaring that the individual is unable to perform some ADLs independently and that without services to assist him/her with ADLs the individual is at risk of placement in out-of-home care. The proposed regulations define a licensed health care professional for the purpose of completing and signing the SOC 873, and specify policies, procedures and time frames relating to the health care certification requirement, including the use of SOC 873 and the IHSS Program Notice to Applicant of Health Care Certification Requirement (SOC 874). Finally, the proposed regulations also specify exception criteria when services can be authorized prior to county receipt of SOC 873.

Forms to be Adopted

This proposed rulemaking action adopts and incorporates by reference the following forms:

IHSS Program Health Care Certification [SOC 873 (Rev. As Noticed, Effective date of proposed regulations)]; and
IHSS Program Notice to Applicant of Health Care Certification Requirement [SOC 874 (Rev. As Noticed, Effective date of proposed regulations)].

Anticipated Benefits of the Proposed Regulation

The benefits of the regulatory action to the health and welfare of California residents, workers safety and the state's environment are as follows: The regulations affect the health and welfare of California residents in that they pertain to an eligibility requirement for the IHSS program, which provides supportive services to elderly and disabled individuals to prevent placement in out-of-home care and allows them to remain safely in their own homes. The primary benefit of the proposed regulations is that counties, who administer the IHSS program at the local level, will have clear policies and procedures to follow to ensure the consistent and uniform application of the health care certification requirement. Additionally, program stakeholders will benefit from having all of the rules relating to the health care certification requirement, which have to date been released via multiple All County Letters, consolidated into a single place, namely the Manual of Policies and Procedures. Finally, the proposed regulations will help promote program integrity (i.e., eliminate fraud) by ensuring that services are provided only to applicants who have a legitimate need which has been documented by a licensed health care professional. There are no additional benefits for worker safety or the state's environment, as the regulations only affect county agencies that administer the IHSS program at the local level and individuals applying for IHSS program services.

Determination of Inconsistency/Incompatible with Existing State Regulations

The CDSS has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. These are the only regulations that concern IHSS health care certification for IHSS applicants.

45-day Public Notice Results

These regulations were considered as Item #1 at the public hearing held on November 4, 2015, in Sacramento. No comments were received during the 45-day comment period from September 18, 2015, to 5:00 p.m. November 4, 2015.

15-day Renotice Results

The Addendum to the Initial Statement of Reasons was made available to the public for comment from March 15, 2016, to March 30, 2016. There were no comments received and no further changes to the rulemaking file that would require notice.